

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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FAIZ KHAN M.D.,

Plaintiff,

-against-

Case 2:24-cv-04745 (JMA) (ST)

JAMES MCDONALD, MD, in his official  
capacity as Commissioner of NYS  
Department of Health;  
JOSEPH A. GIOVANNETTI,  
in his official capacity as Director of Bureau of  
Investigations, NYS Department of Health;  
LAWRENCE BURWELL,  
in his official capacity investigator,  
New York State Department of Health;  
BRIAN CRUZ, in his official  
his capacity as investigator, New York  
State Department of Health;  
“JOHN DOE” and/or “MARY ROE,”  
the last two names being fictitious whose  
identity is unknown to the Plaintiff, the  
individual(s) intended being the director  
or head officer of the NYS Department  
of Health Immunizations Bureau,

Electronically Filed

Defendants

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**DECLARATION OF VAJEERA DORABAWILA, Ph.D.**

Vajeera Dorabawila, Ph.D., declares, under penalty of perjury and pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I am the Director, Bureau of Surveillance & Data Systems (“BSDS”), Division of Epidemiology, at the New York State Department of Health (“DOH”). I have served in this capacity since April 2024 and previously as co-Director since August 2020.

2. My duties and responsibilities in this position include oversight of several of DOH’s computerized databases and systems, including the New York State Immunization

Information System (“NYSIIS”). I am familiar with the facts set forth herein based upon my personal knowledge and my review of the books and records of DOH.

3. Individuals who seek access to NYSIIS are required by DOH to register for a training course and to complete training before DOH determines whether to grant them access to NYSIIS. In addition, DOH requires that the applicant sign the NYSIIS “User Agreement.” A true and accurate copy of the NYSIIS User Agreement that was in use at the time that Dr. Khan was asked to review and agree to abide by its terms is attached as **Exhibit “A”** hereto.

4. In addition, applicants for NYSIIS access are required to have an established Health Commerce Account (HCS) with access to the Health Provider Network (HPN) and are required be part of a provider organization in NYSIIS.

5. DOH does not retain signed copies of the NYSIIS User Agreement, but rather requires applicants to retain their own copies. Thus, at the bottom of page 4 of the User Agreement, the form provides: “This form must remain on file at the User’s organization and readily available upon request.”

6. Upon receipt of notification that an applicant has completed the required training and has satisfied the other conditions described above, DOH determines whether to grant access to NYSIIS. Once granted, a user’s NYSIIS access may be refused or terminated within the sole discretion of DOH. For instance, if a user violates the HCS or NYSIIS requirements, access may be terminated.

7. DOH’s records reflect that Dr. Khan completed the application process, consented to the terms of and signed the NYSIIS User Agreement, and completed his NYSIIS training on March 12, 2021, at 12:32 p.m.

8. On August 20, 2013, as a condition of his access to the State's Health Provider Network, Dr. Khan signed the "New York State Department of Health, HPN Document, Medical Practice Agreement and Account Request" (the "HPN Agreement"). A true and accurate copy of the signature page of the HPN Agreement signed by Dr. Khan is attached as **Exhibit "B"** hereto. A true and accurate copy of the form of HPN Agreement is attached as **Exhibit "C"** hereto.

9. To call out several provisions on the HPN Agreement: Section VI obligates the user to cooperate with DOH in any investigations (Id.). Section V provides that "[a]bsent an appropriate response to account violations, user account privileges will be deleted upon a first offense;" and Section VIII provides that "[a]ccess to the [DOH] secure website is a privilege that may be revoked temporarily or permanently when violations of these security policies occur" (Id.)

10. DOH approved Khan's NYSIIS user account and activated that account on March 15, 2021. Based on DOH's findings at that point in its investigation, and in the interest of ensuring the integrity of NYSIIS and protecting public health, on May 31, 2024, the Department of Health suspended the NYSIIS account for Advanced Medicine of Long Island and Dr. Khan.

Dated: September 20, 2024

Vajeera Dorabawila

VAJEERA DORABAWILA, Ph.D.

9/1/2011

**NEW YORK STATE DEPARTMENT OF HEALTH  
NEW YORK STATE IMMUNIZATION INFORMATION SYSTEM  
  
NYSIIS USER AGREEMENT**

**Part 1: Purpose**

This agreement represents a commitment by the authorized user to abide by the terms of Public Health Law, Title 6, Article 2168, and the provisions of 10 NYCRR (New York Code of Rules and Regulations), Section 66-1.2 (to be adopted) related to the New York State Immunization Information System (NYSIIS).

This agreement details the responsibilities of the authorized user with regard to:

1. Enrolling and Participating in NYSIIS
2. Confidentiality
3. Authorized Uses of Data

**1. Enrolling and Participating in NYSIIS**

In order to access NYSIIS, every user must also have a valid account on the New York State Department of Health's (NYSDOH) Health Commerce System (HCS). This account requires a signed and notarized *Security and Use Policy* and the terms of this policy continue to apply to users of NYSIIS.

**All health care providers and their authorized users agree to:**

- A. Submit to NYSIIS, in an electronic format, information related to administration of vaccines to persons from birth up to 19 years of age.
- B. Report information within 14 days of administration of such vaccine.
- C. Submit, at a minimum, all required data elements, as indicated with an asterisk (\*) in the application.
- D. Report available information on past immunizations, if not already reported by another provider.
- E. Provide individuals 19 years and over with the opportunity to consent to participation in NYSIIS.
- F. Enroll new patients, if not already in NYSIIS, at their first immunization encounter and provide the parent/guardian with NYSIIS educational materials.
- G. Provide NYSIIS generated records to parents/guardians upon request and without cost.
- H. Notify NYSDOH within seven (7) days of an authorized user no longer needing NYSIIS access, for whatever reason, so that the user's access can be terminated in NYSIIS.

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## **2. Confidentiality**

### **All authorized users of NYSIIS agree to:**

- A. Handle all information and documents obtained through NYSIIS in a confidential manner similar to handling any other confidential medical information.
- B. Understand that all transactions are logged and may be subject to audit.
- C. Access information only on individuals for whom health care services are provided, or as otherwise defined in Statute.
- D. Carefully safeguard access privileges and passwords,
- E. Properly exit NYSIIS when the Authorized User is not present at the computer (i.e., the User must log off).
- F. Promptly report any threat or violation of NYSIIS confidentiality or security.

### **All authorized users of NYSIIS agree *not* to:**

- A. Permit other persons to access NYSIIS by using another person's Health Commerce System (HCS) login and password.
- B. Enter inaccurate data intentionally, or falsify data currently in NYSIIS.
- C. Copy all or part of the database for unauthorized use.
- D. Remove from a job site or copy any document or computer record containing confidential information unless specifically authorized to do so and if required in the course of official duties.
- E. Discriminate, threaten, or take any adverse actions with respect to a person to whom confidential information pertains.

## **3. Authorized Use of Data**

### **Authorized use of NYSIIS data is restricted based on the level of access which an organization is permitted.**

- A. State, City and Local health department users are authorized to use the immunization registry for purposes of outreach, quality improvement and vaccine accountability, research, epidemiological studies and disease control.
- B. Health care providers and their authorized users have access to the data for purposes of submission of information about vaccinations received by a specific registrant; determination of the immunization status of a specific registrant; review of practice coverage; generation of reminder notices; quality improvement and vaccine accountability; and printing a copy of the immunization record for the patient's medical record, for the patient, for the patient's parent or guardian, or other person in parental or custodial relation to a patient.
- C. Schools and their authorized users have view-only access to the data for purposes of verifying eligibility for admission.
- D. Health insurance plans and their authorized users have view-only access to the data for purposes of performing quality assurance, accountability and outreach relating to enrollees covered by the health insurance plan.
- E. Commissioners of local social services districts and their authorized users have access to the data with regard to a child in his/her legal custody.

**9/1/2011**

- F. The Commissioner of the Office of Children and Family Services and his/her authorized users have access to the data with regard to children in his/her legal custody, and for purposes of quality assurance and accountability and care and treatment of children in the custody of commissioners of local social services districts.

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## Part 2: Signature

**I have read, agree and will abide by the terms of this User Agreement. I understand this information and I agree with all of the provisions listed. Further, I understand that any violations of these provisions will result in termination of access privileges.**

**All authorized users of NYSIIS must complete the following information:**

### Applicant Information:

<b>Last Name, First Name:</b>
<b>Title:</b>
<b>Signature:</b>
<b>HPN or HIN ID:</b>

### Organization Information:

<b>Organization/Practice Name:</b>	
<b>Address:</b>	
Street	
City/State	Zip Code
County	
Telephone # ( ) _____ - _____	

**Note: This form must remain on file at the User's organization and readily available upon request.**





EXHIBIT "C"

**New York State Department of Health  
Health Provider Network  
Individual NYS Licensed Practitioner Security & Use Policy**

This document describes security terms, conditions and responsibilities that NYS licensed practitioners, hereafter referred to as Practitioners, must agree to in order to become a user of the HPN. This document supersedes all previous versions.

**I. Introduction**

The New York State Department of Health, hereafter referred to as the Department, has developed the Health Provider Network (HPN) as a secure website allowing for exchange of non-public information between Practitioners and the Department. Practitioners may use the HPN for the following:

- Collecting and distributing health related data
- Participating in the Departments Public Health Preparedness and Response Plan
- Volunteering in case of Public Health Crisis

**II. Overall Security**

Practitioners are responsible for the security of HPN data physically located on, or transported over their own networks. This includes validation of users accessing their network (for example, by requiring that all users employ personal passwords), physical security of computers on their network, and security of data that is removed from the HPN (for example, copied onto disks or laptops).

**III. Binding Effect**

By signing a Practitioner account request form the Practitioner understands and agrees that he/she is bound by this agreement regardless of organization or location from which the HPN is accessed. The Practitioner also understands and agrees that future modifications to this agreement may be made and that the Practitioner's agreement with these changes may be effected electronically on the HPN.

The Practitioner understands and agrees that he/she will be bound by the electronic agreement. The Practitioner understands and agrees to comply with the following responsibilities and duties of the security and use policy:

- Adhere to the terms and conditions of this agreement in its entirety regardless of the location from which the user accesses the HPN
- Assure the PIN number and password of the HPN account are kept confidential in a secure place and are not shared with anyone
- Update electronically the contact information recorded in the NYSDOH Communications Directory when necessary so that it is accurate at all times
- Maintain the confidentiality of all data and information accessed on the HPN
- Access only that information on the HPN for which the Practitioner has been duly authorized
- Report any indications of fraudulent use, including being asked to use another's account to gain access to information not specifically authorized to yourself or by witnessing such an action from another user

- Contact NYSDOH at 1-866-529-1890 at least 3 business days prior to any change in HPN responsibilities or in employment status affecting the Practitioner's basis for accessing the account

Because the HPN is a secure system for electronically collecting and distributing health related data among the Department, health facilities/providers, and public health response partners, it is very important for each Practitioner to accept the responsibilities and perform the duties expected of system users when using the HPN.

**IV. Data Disclosure**

Any Practitioner, who discloses confidential patient information, except as authorized by law, may be guilty of professional misconduct under Section 6530 of the State Education Law and may have violated other provisions of law governing confidentiality of information. Such violations may subject the Practitioner to suspension or termination of his or her professional license, fines or imprisonment, in addition to revocation of HPN access. A Participating Practitioner who has obtained information from the HPN **shall not disclose this information to any other person** unless that person is legally authorized to obtain and has official reason to see that information.

**V. Responsibility**

The Practitioner is responsible for keeping his/her ID and password confidential and must not share access with anyone. Absent an appropriate response to account violations, user account privileges will be deleted upon a first offense. The practitioner agrees to keep NYSDOH informed of issues related to access of the HPN, and must notify NYSDOH of any event that would or may effect access or security by calling 1-866-529-1890.

**VI. Investigations**

The Practitioner will notify NYSDOH of any actual or suspected violations of this policy and will cooperate with NYSDOH in any subsequent investigations. Detailed logging of all communications and activity may be required during the course of an investigation.

**VII. Revocation of Access**

Access to the NYSDOH secure website is a privilege that may be revoked temporarily or permanently when violations of these security policies occur.